EXHIBIT C

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

Lucas, Prendergast, Albright, Gibson & Newman,

Plaintiff,

v.

Case No: 94CVH08-5929
(Sheward, J.)

Florence Zachach, et al.,

(Filed Apr. 25, 1995)

Defendants.

DECISION AND ENTRY DENYING DEFENDANTS' MOTION FOR LEAVE TO AMEND COUNTERCLAIM FILED MARCH 23, 1995

Rendered this 25 day of April, 1995. Sheward, J.

This matter comes on for consideration upon Defendants' Motion for Leave to Amend Counterclaim filed March 23, 1995, and a Memorandum Contra filed April 3, 1995. No reply has been filed.

Although Defendants' motion is captioned as a Motion for Leave to Amend Counterclaim, it raises other issues. First, Defendants' motion seeks to add punitive damages without any apparent changes in the claims. The Court agrees with Plaintiff that such an amendment is not necessary pursuant to Civ. R. 54(C) as amended July 1, 1994.

Secondly, Defendants request to amend the Counterclaim by now requesting a jury trial. The last date for a jury demand in accordance with Civ. R. 38(B) was October 21, 1994. Pursuant to Civ. R. 38(D), the right to a jury

trial was waived when no jury demand was filed and served by October 21, 1994. To ask for a jury trial six months later stretches the application of the Civil Rules into non-existence.

So ORDERED.

/s/ Richard S. Sheward
RICHARD S. SHEWARD, JUDGE

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